

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

C. A. INFANT BY MOTHER AND
NATURAL GUARDIAN JACQUELINE
PACHECO AND JACQUELINE PACHECO
INDIVIDUALLY

Plaintiff(s),

-against-

BOB'S DISCOUNT FURNITURE
CORPORATION and JOSEPH CORY
HOLDINGS, LLC.

Defendant(s).

SECOND AMENDED COMPLAINT

18CV 12304

Plaintiffs, by their attorney, **MIRMAN, MARKOVITS & LANDAU, P.C.**, for their amended complaint against the Defendants, allege as follows:

AS AND FOR A FIRST CAUSE OF ACTION
ON BEHALF OF C.A. AN INFANT

1. The basis for jurisdiction herein is by reason of diversity of citizenship under 28 U.S.C. §1332 in that all Plaintiff's are citizens of New York in that C.A. infant and Pacheco both reside and are domiciled in New York, New York and that both defendants are foreign corporations with foreign principal places' of business.

2. Upon information and belief, at all dates and times hereinafter mentioned, defendant BOB'S DISCOUNT FURNITURE CORPORATION was a foreign corporation, based in Massachusetts corporation with a principal place of business in the State of Connecticut, doing business in the State of New York .

3. Upon information and belief, at all the dates and times hereinafter mentioned, defendant JOSEPH CORY HOLDINGS LLC was a foreign corporation, with a principal place of business in the State of New Jersey, doing business in the State of New York. JOSEPH CORY HOLDINGS LLC is wholly owned by its sole member, Joseph Cory Warehouses, Inc., which is located in and incorporated in the State of New Jersey.

4. Upon information and belief, at all times hereinafter mentioned, the defendant BOB'S DISCOUNT FURNITURE CORPORATION transacted business and committed a tortious act within the State of New York and the within cause of action arose therefrom.

5. Upon information and belief, at all times hereinafter mentioned, the defendant BOB'S DISCOUNT FURNITURE CORPORATION regularly did, or solicited business, and derived substantial revenues from goods sold, in the State of New York.

6. Upon information and belief, at all times hereinafter mentioned, the defendant JOSEPH CORY HOLDINGS LLC transacted business and committed a tortious act within the State of New York and the within cause of action arose therefrom.

7. Upon information and belief, at all times hereinafter mentioned, the defendant JOSEPH CORY HOLDINGS LLC regularly did, or solicited business, and derived substantial revenues from goods sold, in the State of New York.

8. Upon information and belief, at all the dates and times hereinafter mentioned, defendant BOB'S DISCOUNT FURNITURE CORPORATION operated furniture stores in New York State selling furniture to the public.

9. Upon information and belief, at all the dates and times hereinafter mentioned, defendant JOSEPH CORY HOLDINGS LLC operated a furniture delivery service on behalf of furniture stores in New York State selling furniture to the public including defendant BOB'S DISCOUNT FURNITURE CORPORATION.

10. Upon information and belief pursuant contract or agreement oral or written defendant JOSEPH CORY HOLDINGS LLC, agreed to make deliveries of furniture and to install same upon delivery with the defendant BOB'S DISCOUNT FURNITURE CORPORATION.

11. Upon information and belief, at all the dates and times hereinafter mentioned, the Defendant BOB'S DISCOUNT FURNITURE CORPORATION operated a store open to the public at a location at 517 East 117th Street in New York County, City and State of New York.

12. Upon information and belie at all dates and times hereinafter mentioned the Defendant BOB'S DISCOUNT FURNITURE CORPORATION, sold and offered to the public for sale a four draw chest of draws .

13. On or about April to May 2017 the plaintiff Jacqueline Pacheco purchased a four draw chest of draws from the Defendant BOB'S DISCOUNT FURNITURE CORPORATION.

14. That for good and valuable consideration the Plaintiff Jacqueline Pacheco purchased the aforesaid chest of draws from Defendant BOB'S DISCOUNT FURNITURE

CORPORATION and paid for the chest of draws, paid separately for delivery of same and separately for installation of same to and at her home located in New York County.

15. On or about April to May of 2017 Defendant BOB'S DISCOUNT FURNITURE CORPORATION and defendant JOSEPH CORY HOLDINGS LLC., their agents, servants and employees, delivered the aforesaid purchased four draw chest of draws to the plaintiff's home but negligently, carelessly and recklessly, failed to install same or secure same to a wall or otherwise as required.

16. On or about August 31, 2017, at plaintiff's residence the plaintiff C.A. an Infant was was caused to be injured and to sustain injuries when the aforesaid four draw chest of draws fell over onto the infant C.A., due to the negligence, carelessness and recklessness of the defendant BOB'S DISCOUNT FURNITURE CORPORATION and defendant JOSEPH CORY HOLDINGS LLC, their agents, servants and employees, in failing to secure the aforesaid purchased four draw chest of draws to a wall or otherwise when delivered although they knew of the dangers there existing and although placed on notice of same at said time.

17. The aforesaid accident and the injuries to the plaintiff C.A., were caused by the negligence, carelessness and recklessness of the defendant BOB'S DISCOUNT FURNITURE CORPORATION and JOSEPH CORY HOLDINGS LLC, their agents, servants and employees acting in the scope of their employment without any negligence on the part of plaintiff C.A. or Jacqueline Pacheco, contributing thereto.

18. By reason of the foregoing, plaintiff C.A. sustained personal injuries of a permanent nature; has become and will continue to be disabled; was required to and did undergo medical care and rehabilitation; and is unable to enjoy and partake in the otherwise normal activities of life all to his great damaget.

AS AND FOR A SECOND CAUSE OF
ACTION ON BEHALF OF JACQUILINE PACHECO

19. Plaintiff repeats and re-alleges all of the allegations of the complaint numbered 1-18 above as if set forth herein at length.

20. As a result of all of the foregoing the plaintiff Jacqueline Pacheco lost the love , aid comfort companionship of the plaintiff C.A., an infant.

WHEREFORE, Plaintiff(s) demand judgment against the defendants BOB'S

DISCOUNT FURNITURE CORPORATION and JOSEPH CORY HOLDINGS LLC jointly and severally on the First Cause of Action, and the Second Cause of Action together with interest, costs and disbursements of this action.

Dated: New York, New York
August 19, 2019



Yours, etc.,
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-against-

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LLC

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SECOND AMENDED COMPLAINT

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